

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

HARTLAND LAKESIDE JOINT NO. 3)
SCHOOL DISTRICT, et al., on their own)
behalf and on behalf of all others similarly)
situated,)
Plaintiffs,)
vs.)
WEA INSURANCE CORPORATION, et al.,)
Defendants.)

**PLAINTIFF CLASS REPRESENTATIVES' MOTION TO COMPEL FURTHER
DISCOVERY RELATING TO TESTIMONY AND OPINIONS OF VAUGHN VANCE**

Class Representatives Hartland Lakeside Joint No. 3 School District, Oconomowoc Area School District, and Arrowhead Union High School, move, pursuant to Fed. R. Civ. P. 37(a) and L.R. 37 for an order compelling Defendants (collectively “WEA Trust”) to provide further discovery, including the production of documents, which they have withheld as privileged, relating to Vaughn Vance’s analysis of the Early Retiree Reinsurance Program and any communications or documents considered or relied upon by him in undertaking that analysis.

The grounds for this motion, as set forth more fully in the brief filed simultaneously with this motion and its supporting declaration, are that (1) WEA Trust waived privilege by permitting Mr. Vance to testify at a deposition regarding his legal analysis and communications with WEA Trust employees; (2) WEA Trust waived privilege by putting Mr. Vance's legal advice "at-issue" in this case by affirmatively asserting WEA Trust's good faith reliance on such advice as evidence that it did not have a culpable state of mind; and (3) WEA

Trust waived privilege by naming Mr. Vance as an expert witness in this case, by having him testify that his opinions were based on his communications with WEA Trust employees and his own legal analysis, and by relying on that opinion testimony in its motion for summary judgment.

Class Representatives seek an order compelling WEA Trust to provide further discovery, including the production of documents, which they have withheld as privileged, relating to Vaughn Vance's analysis of the Early Retiree Reinsurance Program and any communications or documents considered or relied upon by him in undertaking that analysis.

Class Representatives also seek an award of attorney's fees, expenses, and costs, pursuant to Rule 37(a)(5).

Class Representatives request expedited consideration of this motion.

Dated: May 24, 2013

Respectfully submitted,

s/Philip C. Babler _____
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